

### **REMARKS**

Claims 61-71, 74-83, 86 and 87 are now pending in the application. Claims 61, 62, 65, and 81 are currently amended. Claim 89 is newly added. Support for the foregoing amendment can be found throughout the specification, drawings, and claims as originally filed and as amended. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **INTERVIEW SUMMARY**

Applicant would like to thank the examiner for the courtesies extended to applicant's representatives during the telephonic interview conducted on Monday, February 7, 2011. The interview was attended by Thomas Vesbit and Teymour El-Tahry on behalf of the Applicant and Examiner Joshua Rodden on behalf of the U.S. Patent Office. During the interview, the parties discussed three possible amendments that could be made, one pertaining to the shape of the disclosed pallet-rack protector and/or the upright column of the pallet-rack. Applicant's representatives and the examiner further discussed amendments directed towards the inner lining having sufficient deformability to be slid between the outer shell and the pallet-rack as well as amendments directed to a polycarbonate outer sheath for the outer shell. During the interview, the examiner indicated that an amendment directed towards the shape of the upright column of the pallet-rack and the shape of the pallet-rack protector would likely be sufficient to overcome the combination of Ian and Homolka. In view of the interview, Applicant has amended claim 61 to include additional structure as indicated in the

specification. Applicant has also added independent claim 89 which claims a racking system such that the upright column and the protector device are both recited in the body of the claim.

#### **DRAWINGS**

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include certain reference signs mentioned in the description. Applicant has amended the third paragraph on page 15 to indicate that the first wall portion is 505 as shown in Figure 5. Applicant respectfully submits that the amendment to the specification renders the objection to Figure 5 moot. Reconsideration and withdrawal of the objection are respectfully requested.

Similarly, applicant has amended the second paragraph on page 22 such that numeral 1100 has been removed from the specification. Applicant respectfully submits that the objection to Figure 11 is hereby rendered moot in view of the amendment to the specification. Reconsideration and withdrawal of the objection are respectfully requested.

#### **REJECTION UNDER 35 U.S.C. § 112**

Claim 65 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. Applicant has made the appropriate corrections to claim 65. Accordingly, Applicant requests reconsideration and withdrawal of this rejection.

**REJECTION UNDER 35 U.S.C. § 103**

Claims 61-69, 71, 74-83, 86, and 87 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ian (GB 2,321,668; "Ian") in view of Homolka et al. (U.S. Pat. No. 6,684,572; "Homolka"). This rejection is respectfully traversed.

Applicant respectfully submits that claim 61 patentably defines over the combination of Ian and Homolka. In particular, the combination of Ian and Homolka fails to disclose "said outer shell surrounds the front member, the first and second outer side members, and the first and second connecting members, such that the outer shell is coupled to and received by the first and second inner side members of the upright column, thereby protecting the front member, the first and second outer side members, the first and second connecting members and parts of the first and second inner side members." The upright column is described as:

being channel shaped in cross section and having a substantially rectangular front portion consisting of a front member, first and second outer side members, first and second inner side members, first and second connecting members connecting the first and second outer side members to the first and second inner side members, respectively, a first outer lip member extending outwardly from an outer edge of the first inner side member and extending in a plane substantially parallel to the front member, and a second outer lip member extending outwardly from an outer edge of the second inner side member and extending in a plane substantially parallel to the front member.

According to Ian, the outer shell does not couple to the pallet rack column at all. The outer shell surrounds the entire column, including the outer lip members. Furthermore, the inner liner also surrounds the entire pallet rack column. Thus, Ian cannot be read to teach or otherwise suggest "said outer shell surrounds the front

member, the first and second outer side members, and the first and second connecting members, such that the outer shell is coupled to and received by the first and second inner side members of the upright column, thereby protecting the front member, the first and second outer side members, the first and second connecting members and parts of the first and second inner side members."

Applicants respectfully submit that Homolka does not cure the deficiencies of Ian. Homolka is directed to a jamb protector. A jamb does not have a cross-sectional shape disclosed above. As such, Homolka does not disclose "said outer shell surrounds the front member, the first and second outer side members, and the first and second connecting members, such that the outer shell is coupled to and received by the first and second inner side members of the upright column, thereby protecting the front member, the first and second outer side members, the first and second connecting members and parts of the first and second inner side members." Accordingly, Homolka fails to cure the deficiencies of Ian. Thus, claim 61 patentably defines over the combination of Ian and Homolka. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 62-69, 71, 74-83, 86, and 87 all depend either directly or indirectly from claim 61. Thus, for at least the reasons provided above, claims 62-69, 71, 74-83, 86, and 87 also define over the combination of Ian and Homolka. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 70 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ian in view of Homolka and further in view of Jacoby et al. (U.S. Pat. No. 4,088,229; "Jacoby"). This rejection is respectfully traversed.

Jacoby is directed to a storage rack. Applicant respectfully submits that Jacoby cannot cure the deficiencies of Ian and Homolka as applied to claim 61. Thus, for at least the reasons provided above, Applicant respectfully submits that claim 61 patentably defines over the combination of Ian and Homolka. In particular, the combination of Ian and Homolka fails to disclose the outer shell which is connected to said first and second inner side members of said column. Applicant respectfully submits that the column as disclosed in Ian is shown in Figure 2 by reference numeral 9. As can be seen from Figure 2, the outer shell surrounds the column and is not received at or coupled to the side member.

#### **NEW CLAIM**

Claim 89 is newly added. Applicant respectfully submits that claim 89 recites subject matter that is similar to claim 61. Claim 89 is directed towards a racking system comprising a split column in a protector device. Claim 89 is in accordance with the examiner's suggestion of moving the pallet-rack upright column into the body of the claim. The examiner had indicated that by doing so and defining the shape of the pallet-rack column, applicant would be able to overcome the combination of Ian and Homolka. Accordingly, applicant respectfully submits that claim 89 patentably defines over Ian and Homolka, and that claim 89 is in condition for allowance.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests

that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: February 28, 2011

By: Timothy D. MacIntyre/  
Timothy D. MacIntyre  
Reg. No. 42,824

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

TDM/TSE/dec

1585949 1